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September 14, 1992

BY HAND DELIVERY

Ms. Donna R. Searcy,
Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, DC 20554

RE: CC Docket No. 92-166

Dear Ms. Searcy:

Transmitted herewith for filing in the above-referenced docket on behalf of Loral Qualcomm Satellite Services, Inc. are an original and nine copies of its "Comments and Application for Membership."

Should there be any questions regarding this matter, please communicate with this office.

Very truly yours,

William D. Wallace
William D. Wallace
(Member of Florida Bar only)

Enclosures

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of:

An Advisory Committee
to Negotiate Regulations
for the Provision of Mobile
Satellite Service in the
1610-1626.5 MHz and
2483.5-2500 MHz Bands

CC Docket No. 92-166

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS AND APPLICATION FOR MEMBERSHIP
OF LORAL QUALCOMM SATELLITE SERVICES, INC.

Pursuant to Public Notice DA 92-1085 (released August 7, 1992) (Notice), the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and the Negotiated Rulemaking Act of 1990 (NRA), Pub. L. 101-648, November 29, 1990, 104 Stat. 4969, Loral Qualcomm Satellite Services, Inc. (LQSS), by its counsel, hereby files these comments on the proposed Advisory Committee to establish technical rules for Mobile Satellite Service (MSS) in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands and confirms the Commission's identification of it as an interest that will be significantly affected by the outcome of the proceeding (Notice ¶¶ 1, 8) and accordingly submits its application for membership on the Advisory Committee.^{1/}

^{1/} LQSS notes that the Notice lists (at ¶ 8) it as "Loral Cellular Communications, Inc." and asks that this denomination be corrected to "Loral Qualcomm Satellite Services, Inc."

I. COMMENTS ON PUBLIC NOTICE

(1) LQSS concurs in the Commission's decision to convene a negotiated rulemaking committee to establish rules for MSS in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands. LQSS also strongly supports the goal set forth by the Commission: "The negotiations are to assist the Commission in developing regulations that will facilitate the shared use of this spectrum by the maximum number of MSS providers." (Notice, ¶ 1.)

(2) As the Commission recognized in the Notice, there are six pending applicants for use of the RDSS bands. Each applicant proposes certain technical facilities for provision of MSS. In addition, a number of government and private parties have filed comments on various aspects of the proceedings involving these applicants, and certain of these submissions have been made by entities using spectrum in these bands.

LQSS believes that it can be constructive to bring these entities together in an effort to resolve certain technical and related issues. In this way, the Commission can promote its "open skies" multiple entry policy, while at the same time offering interested entities an opportunity to voice and discuss their concerns and provide further analysis of data.

LQSS notes, however, that an expeditious proceeding will be in the public interest. The six applications for use of the spectrum under consideration have been pending for over a year, and there will be of necessity a hiatus between grant of construction permits and any launch of initial satellites. Therefore, the Commission should take steps from the outset to

move the negotiated rulemaking process along as fast as possible. Indeed, LQSS would recommend that the Commission target February 28, 1993, as the date for completion of the rulemaking.

(3) LQSS agrees that the two issues identified by the Commission (Notice, ¶ 6) are the issues on which the negotiated rulemaking should focus, i.e.,

- (a) What technical rules should be adopted for this service so as to maximize the sharing of spectrum and the capacity for multiple entry, and
- (b) What technical rules should be adopted in order for this service to co-exist with other allocated services.

As LQSS has recognized in prior pleadings, multiple entry and sharing of the spectrum not only are required by the Commission's Rules and policies, but also promote the public interest benefits which arise from competition.

In this connection, LQSS believes that it would be advisable for the Commission to issue a Notice of Proposed Rulemaking with respect to eligibility criteria, service rules and comparative criteria as soon as possible. In this way, proceedings with respect to qualifications and comparative criteria for applicants, as well as service standards, would go forward at the same time as the negotiated rulemaking with respect to technical matters, reducing the likelihood of delay. Parallel development of technical and service rules would also speed the process of rulemaking, and, ultimately, operation of the proposed systems, which would be in the public interest.

(4) In drafting a charter for the proposed Advisory Committee, the Commission should take a comprehensive view of the two issues designated in the negotiated rulemaking. For example,

it would be appropriate to consider spectrum efficiency in the development of technical rules. To consider spectrum efficiency, of course, system cost and related matters must also be taken into account.^{2/}

(5) The Commission should consider additional methods to expedite and simplify the rulemaking process. LQSS strongly urges the Commission to publish the charter for the Advisory Committee well in advance of its first scheduled meeting, and to make the charter as specific and complete as possible. The Commission should then permit one round of comments on the charter and matters to be discussed by the Advisory Committee, with a short time period (e.g., 7 days) for submission of such comments.

(6) If informal working groups conduct certain aspects of the business of the Advisory Committee, then the charter should set forth what issues or matters would be delegated to subgroups of the full committee and the role these subgroups would assume. The nature, size and other aspects of "membership" on the Advisory Committee should also be set forth, as should the voting or other procedures pursuant to which the Advisory Committee would be expected to operate. The proposed meeting schedule should also be set forth to assist the parties in planning and allocating resources.^{3/}

^{2/} Matters with respect to international coordination should also be considered.

^{3/} In this connection, it should be noted that it may be appropriate, convenient and cost effective to hold some meetings or working group sessions in a location other than Washington, D.C. (Notice, ¶ 17). Many of the applicants (and their participating personnel) are headquartered in the west or on the west coast.

II. APPLICATION FOR MEMBERSHIP

As the Commission recognized (Notice, ¶ 8), LQSS is an entity with interests that will be affected by the proposed negotiated rulemaking. LQSS agrees with this designation, and accordingly, is hereby submitting its application for membership on the Advisory Committee which the Commission proposes to convene in this docket (the so-called "Big LEO" proceeding).

LQSS is an applicant for authority to construct a low-earth orbit (LEO) MMS/RDSS system, GLOBALSTAR, (LQSS Application, File Nos. 19-DSS-P-91(48) and CSS-91-014, filed June 3, 1991) and has filed a related rulemaking petition (LQSS Petition for Rulemaking, filed November 4, 1991). LQSS makes this application in order that its interest, which will be significantly affected by the proposed rules, will be adequately represented.

Pursuant to the requirements of the NRA, 5 U.S.C. § 584(b), and Paragraph 11 of the Commission's Notice, LQSS submits the following information:

(a) The applicant for membership is Loral Qualcomm Satellite Services, Inc. (LQSS). LQSS will represent its interest as an applicant for MSS/RDSS authorization, whose application has been accepted for filing. As an applicant for authority to construct a satellite system in the bands under consideration, LQSS would be directly affected by the rules which are adopted in this proceeding. (Paragraph 11(a).) With respect to each of the matters set forth in Paragraph 6 of the Public Notice, LQSS does not and will not have "a similar point of view" nor will it be "likely to be affected in a similar manner," as the other entities or interests set forth in Paragraphs 7 and 8 of the Public Notice as participants on the Committee. See House Report No. 101-461 on H.R. 743, Report of the Committee on the Judiciary, 101st Cong., 2d Sess., at 12 (1990); see also Senate Report No. 101-97 on S. 303, Report of the Committee on Government Affairs, 101st Cong., 1st Sess.,

at 11, 13-15 (1989). Accordingly, since LQSS "will be significantly affected by the proposed rule and ... [its] interests will not be adequately represented by any person specified in [the] notice," 5 U.S.C. § 584(b), it is entitled to participate on the Committee.

(b) LQSS, the applicant, does not seek to represent any other party. Therefore, LQSS need not submit "evidence that [it] is authorized to represent parties related to the interests the entity proposes to represent." (Paragraph 11(b).)

(c) Attached to this application is a written commitment from the applicant that it "shall actively participate in good faith in the development of the rules under consideration." (Paragraph 11(c).)

(d) The reasons the other persons specified in the Public Notice (in ¶¶ 7 and 8)^{4/} "do not adequately represent the interests of the entity submitting the application" (Paragraph 11(d)) are: (1) five of the entities specified are applicants for MSS in the same bands for which LQSS has applied; (2) each of the applicants has proposed somewhat different technical facilities, which the Commission notes "may be technically incompatible" (Notice, ¶ 5), and which may not have the same interest in or perspective on the issues designated (Notice, ¶ 6) as LQSS; and (3) LQSS's posture with respect to international markets is distinct and divergent from the other applicants.

The qualified individuals designated by the applicant, LQSS, to represent the interest of LQSS, as shown in the attached written commitment are Robert Wiedeman, Ming Louie, Linda K. Smith and Kevin J. Kelley. (Notice, ¶ 16.)

This application demonstrates that the NRA and Notice criteria for participation in the Advisory Committee in this

^{4/} The persons specified were: "(a) applicants to provide MSS in the affected bands, and (b) existing users of the bands," and American Mobile Satellite Corporation, Constellation Communications, Inc., Ellipsat Corporation, LQSS (denominated as "Loral Cellular Communications, Inc."), Motorola Corporation, TRW, Inc., the National Academy of Sciences, and the Domestic Facilities Division, Common Carrier Bureau, Federal Communications Commission.

docket have been met. Accordingly, LQSS submits this application for membership on the Advisory Committee and asks that it be promptly granted.

Respectfully submitted,

LORAL QUALCOMM SATELLITE SERVICES, INC.

By: Linda K. Smith

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Its Attorneys

Dated: September 14, 1992

**STATEMENT AND
COMMITMENT OF APPLICANT**

Loral Qualcomm Satellite Services, Inc. (LQSS), as set forth in this Statement and Commitment and in the accompanying Application for Membership, applies for membership in the Negotiated Rulemaking Committee with respect to CC Docket No. 92-166, FCC Public Notice, DA 92-1085, released August 7, 1992. As President of LQSS, I hereby commit that LQSS shall actively participate in good faith in the development of the rules under consideration in this proceeding. I also commit that Robert Wiedeman, Ming Louie, Linda K. Smith and Kevin J. Kelley are the qualified individual(s) designated to represent the interest of LQSS, and that I am duly authorized to make this application, commitment, and designation.



Doug Dwyre
President
Loral Qualcomm Satellite Services,
Inc.

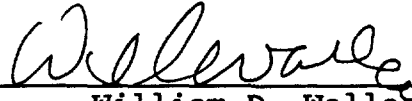
Dated: September 9, 1992

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Comments and Application of Loral Qualcomm Satellite Services, Inc." were delivered by hand, this 14th day of September, 1992, to the following:

Cheryl Tritt, Esq.
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Fern J. Jarmulnek
Satellite Radio Branch
Federal Communications Commission
2025 M Street, N.W., Room 6112
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William D. Wallace